

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3077 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

THAKARANI GAMANKUNVARBA K

Versus

STATE OF GUJARAT

Appearance:

MR ARUN H MEHTA for Petitioner

MS MANISHA LAVKUMAR for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 30/06/2000

ORAL JUDGEMENT

#. The petitioner, an ex-jagirdar of Jagir Kukadia by this petition challenges the order of the Gujarat Revenue tribunal at Ahmedabad to the extent where the Tribunal has not accepted the claim of the trees of village Sunsar.

#. The learned counsel for the petitioner contended that the Tribunal has committed serious error in holding that the petitioner has not raised claim in claim form No.5 under section 6 of the Gujarat Private Forest (Acquisition) Act, 1972. It is submitted that this claim has been made but name of village has not been mentioned. It has next been contended that the right to receive compensation for the trees is there and where in panchnama made by the authorities, trees were found the only on this ground this amount cannot be denied, otherwise, such provision in the Act will be ultra-vires of Article 31 of the Constitution of India.

#. Ms.Manisha Lavkumar, AGP, on the other hand supported the order passed by the learned Tribunal.

#. Having heard the learned counsel for the parties, I am satisfied that this matter has to be remanded back to the Tribunal. Paragraph-10, 11 & 12 of the Judgement of the tribunal are as under:

"10. The next point which will arise is about the inconsistencies of number of trees shown in the applications and those shown in the panchnama. While comparing the two details it is found that in respect of village Sunsar the information in respect of following trees are identical both in the application as well as in the panchnama. The O.S.D. has not awarded compensation for reserved trees like Sag, etc. We have classified the trees being reserved and non-reserved trees:

Identity of non- Nos.shown in Nos.shown in
reserved trees application panchnama

Rayan 25 25
Limda nil nil
Vad 112 112
Amba 4 4
Dhav-danda 35047 35047
Kada-danda 21061 21061
Mahudha, etc. 1198 1198 *

* Remarks: The applications state Mahudha etc. as numbering 1198, whereas panchnamas give details of all the trees according to which non reserved trees are as under:

Haddu 63
Sadad 100
Bio 170
Rayan 130

The rest of the trees are reserved trees.

Reserved trees:

Sagidanda 18000 18000
Sagidanda Vali 100000 100000
Mahudha 225 225
Kher 220 220
Sisam 180 180
Chandan 55 55

11. So far as inconsistency between the figures shown in the application and the panchnama in respect of village Sunsar the same is as under.

In the application an item of 100066 number has been shown as miscellaneous Pancharav Zadi Jaluv Coal etc. for which compensation of Rs.63000 plus Rs.50,000 = Rs.1,13,000/- has been asked for and similarly in the panchnama also the details about the girth etc. has not been shown. Similarly in the panchnama the number of Kalam and Tannag trees which have been shown in the panchnama as 4657 and 8105 respectively have not been shown in the application.

12. Now from the above figures of village Sunsar, we decide that the appellant cannot get compensation for which he has not put up the claim in his application even though the same are shown in panchnama. Thus the miscellaneous claim of Rs.1,13,000/- towards Pancharav Zadi and Jalov Coal and the claim for 4657 number of Kalam trees and 8105 of Tunnag trees has got to be rejected."

#. From this judgment, I find that in the application, 100066 trees have been shown as miscellaneous Pancharav Zadi Jaluv Coal etc. for compensation of claim of Rs.1,13,000/= but what Tribunal said that in the panchnama details about girth etc. has not been shown. So far as the claim for said trees is concerned, the Tribunal said that though in the panchnama these trees

were found but not shown by petitioner in the application. In paragraph-11 of the judgment, if what it is stated therein in end is correct, then what the Tribunal said that in the panchnama, existence of trees has been found and that is also contention of the learned counsel for the petitioner, is correct.

#. In view of this contradiction in the judgment, the matter needs to be reconsidered by the Tribunal. The Tribunal will consider the question where the claim is not made in the application and in the panchnama the trees were found, whether the ex-jagirdar can be denied of the compensation? Another reason for remand is that 100066 trees were as per Tribunal, mentioned in the application. Once this has been done, the Tribunal has to consider whether non mentioning of village name will go to the extent where the total relief has to be denied.?

#. In the result, this special civil application is disposed of in the terms that the Tribunal has to consider this matter afresh with respect to the claim of the petitioner made in paragraphs 10, 11 and 12 of the Judgment of the Tribunal. The matter has to be decided within a period of three months from the date of receipt of writ of this order. Rule is made absolute accordingly with no order as to costs.

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(sunil)